



W.P.(MD) No.21898 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 04.09.2023

ORDERS PRONOUNCED ON : 26.09.2023

CORAM

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) No.21898 of 2017

and

W.M.P.(MD) No.18211 of 2017

1.N.Hemamalini

2.M.Rajan

3.G.Thirumagal

... Petitioners

Vs.

1.The Government of Tamilnadu,
Rep., by its Secretary to Government,
Education Department, Fort St. George,
Chennai-9.

2.The Director of Elementary Education,
College Road,
Chennai-600 006.

3.The Chief Educational Officer,
Karur, Karur District.

4.The District Elementary Educational Officer,
Karur, Karur District.



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5.The Additional Assistant Elementary Educational Officer,
Karur Union, Karur District.

6.The Assistant Elementary Educational Officer,
Karur Union, Karur District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records relating to G.O.(3D) No.4, School Education (நீ.வ.3(1)) Department, dated 21.01.2015 and the consequential order of the 4th respondent in Mu.Mu.No. 1092/A4/2015 dated 02.06.2016 and quash the same in so far it relates to the approval of the appointment of the petitioners alone with effect from 28.09.2004 and 20.07.2004 respectively as Secondary Grade Teachers instead of 03.01.2002 and consequently direct the respondents to regularize the petitioners' service as Secondary Grade Teachers with effect from 03.01.2002 the date on which the petitioners secured the right of appointments to the post of Secondary Grade Teachers and fix the pay and seniority notionally w.e.f. 03.01.2002 with all attendant benefits including the pensionary benefits under old pension scheme.

For Petitioners : Mr.T.Pon Ramkumar

For Respondents : Mr.V.Nirmal Kumar
Government Advocate



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ORDER

Heard learned counsel for the petitioners and learned Government Advocate appearing for the respondents and perused the record.

2. Learned counsel for the petitioners submits that the petitioners belong to Scheduled Caste community. They completed their Diploma in Teachers Training Education on 26.11.2001, 03.12.2001, and 23.11.2001 respectively and registered their names in the Karur District Employment Exchange for the purpose of appointment to the post of Secondary Grade Teacher with Registration Nos.3601/2001, 4299/2001 and 3596/2001 respectively.

3. Learned counsel for the petitioners further submits that the 3rd respondent initiated steps for appointment of Secondary Grade Teachers in the year 2001 to fill 207 vacancies, which were available at that time, out of which 22 vacancies were backlog vacancies for Scheduled Caste, Scheduled Tribe and Most Backward Class communities. The 3rd respondent called for



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interview for the candidates whose names were sponsored by the District Employment Exchange, Karur basing on the seniority of registration.

4. Learned counsel for the petitioners further submits that the petitioners though have registered their names in the Employment Exchange in the year 2001 itself, they were not called for to attend the interview. They made several representations to the respondents to make appointments to the Scheduled Caste candidates as per the advertisement and communal reservation. The 3rd respondent again called for an interview on 11.01.2002 for filling up the vacancies of Scheduled Caste community candidates. After verification and confirmation of the residential and communal status, the District Collector forwarded a list to the 3rd respondent on 19.02.2002. Even after receipt of the same, no appointments were made. Again the petitioners made representations to the 3rd respondent. The 3rd respondent informed the petitioners on 29.07.2002 that after receipt of the report from the District Collector, they sought for special permission from the 2nd respondent and after obtaining the permission, the appointments will be made. On 31.05.2003, the District Collector also sent a request to the 3rd



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respondent to make appointments immediately. Despite all recommendations, the 3rd respondent did not take any steps to appoint the petitioners in the post of Secondary Grade Teacher. In the meantime, the 3rd respondent appointed the petitioners as Secondary Grade Teacher on consolidated pay for a sum of Rs.3,000/- per month as per G.O.Ms.No.100, School Education Department, dated 27.06.2003. Left with no other option, the petitioners joined in the said post.

5. Learned counsel for the petitioners contends that the petitioners are entitled to get regular appointments as per the communal reservation and as per the original notification. He contends that due to the verification of genuineness of nativity in Employment Exchange Registration, the respondents did not appoint the petitioners as Secondary Grade Teacher in the year 2002. Subsequent appointments on consolidated pay will not cure the defect.

6. Learned counsel further contends that the 3rd respondent by letter dated 15.07.2002, informed to the 2nd respondent that due to the



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verification of genuinenes of nativity of employment registration in respect of Karur District, backlog vacancies were not filled up. He sought permission to fill 40 Secondary Grade Teachers backlog vacancies in Elementary Education Department and 37 Secondary Grade Teachers vacancies in the School Education Department. Considering the said request, the Government issued G.O.(Ms).No.116, School Education Department, dated 11.09.2003 in which the Government ordered that 37 vacancies of Secondary Grade Teacher pertaining to the year 2001-2002 should be considered as special case and should be filled up as vacancies of the year 2003-2004. Some of the candidates, who are claiming benefit under G.O.(Ms).No.116, dated 11.09.2003, filed W.P.No.30734 of 2008 before this Court. The said writ petition was allowed by order dated 27.01.2009 holding that the petitioners therein are entitled to be considered under the said Government Order and this Court directed the respondents therein to consider the petitioners' names for the purpose of appointment to the 37 vacancies. An appeal filed against the said order in W.A.No.249 of 2011 was dismissed by a Division Bench of this Court.



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7. Under those circumstances, One K.Arumugam filed a writ petition in W.P.No.18267 of 2009 before this Court seeking direction to fix the seniority and notional benefits from 03.01.2002, the date on which the petitioner therein secured the right of appointment to the post of Secondary Grade Teacher. By order dated 07.01.2014, the said writ petition was allowed by this Court as prayed for by following the earlier order dated 16.07.2010 in W.P.No.47929 of 2006, which was also implemented by the respondents.

8. Learned counsel for the petitioners further contends that the Government passed the impugned order in G.O.(3D) No.4, School Education (நீ.வ.3(1)) Department, dated 21.01.2015 refusing to regularise the services of the petitioners from 03.01.2002, but directed to regularise from the date of appointment under consolidated pay i.e., from 28.09.2004, 20.07.2004 and 20.07.2004 respectively.



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9. Learned counsel further submits that the impugned order is totally against the orders passed by this Court and passed with non-application of mind and as such, it is liable to be set aside.

10. Learned Government Advocate, appearing for the respondents, would submit that during the year 2000 and 2001, several writ petitions were filed before the Principal Bench of this Court relating to sponsorship of their names in the District Employment Exchange, Karur District for appointment to the post of Secondary Grade Teacher. The issue involved in those writ petitions was relating to the cancellation of registration certificates and residential certificates of the petitioners therein.

11. Learned Government Advocate would further submit that at that time, number of aspirants of Secondary Grade Teacher posts had produced forged registration certificates and residential certificates in the District Employment Exchange and on the strength of the same, they sought appointment. This Court, by common order dated 08.08.2001, directed the District Collector, Karur for verification of the registration certificates and



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residential certificates after giving opportunity to the concerned. In compliance of the said common order dated 08.08.2001 of this Court, the District Collector, Karur obtained the list of registered candidates in the District Employment Exchange, Karur as on October, 2001. After scrutiny, the District Collector, Karur had prepared a list of genuine candidates registered their names with genuine documents and prepared a report. As per the report, the total genuine candidates were 129. Subsequently, the 129 eligible candidates were called for interview on 03.01.2002. At the time of interview process, some candidates, who have registered their names in the Employment Exchange from November, 2001 to December, 2001 had fought with the officials contending that the candidates, who had registered their names in November, 2001 should have also been considered for appointment. In order to maintain law and order problem, those candidates were asked to present on 11.01.2002 and on the same day, certificate verification was conducted by the officials.

12. Learned Government Advocate further submits that the case of the petitioners herein is that they belong to Scheduled Caste community and



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as on 03.01.2002, there are 77 backlog vacancies available to Scheduled Caste, Scheduled Tribe and Most Backward Class communities and the said backlog vacancies have to be filled before making fresh appointments. He would submit that the Government has issued G.O.Ms.No.100, School Education Department, dated 27.03.2003 for the appointment of Junior Secondary Grade Teachers in the Panchayat Union Elementary Schools under consolidated payment of Rs.3,000/-. The petitioners were appointed in the year 2004 on consolidated basis and subsequently, their services were regularised on 01.06.2006. The request of the petitioners seeking regularisation with effect from 03.01.2002 could not be considered due to the reason that the petitioners were originally appointed on 28.09.2004, 20.07.2004 and 20.07.2004 respectively only on consolidated payment.

13. Learned Government Advocate contends that the claim of the petitioners could not sustain due to the reason that the petitioners belong to Elementary School unit. But, the Government gave permission to fill up the backlog vacancies of 37 Secondary Grade Teachers as special case for the academic years 2003 and 2004 as per G.O.(Ms).No.116, School Education



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Department, dated 11.09.2003. As such, the said Government Order is not at all applicable to the petitioner.

14. Learned Government Advocate further contends that the petitioners' names were not found place in the selected list prepared in the year of 2001 for want of clarification in respect of the petitioners' original residence. In addition to that, the petitioners enrolled in the District Employment Exchange only in the months of November, 2001 and December, 2001. As such, he contends that the petitioners' expectation of seeking notional appointment from 03.01.2002 is not justifiable and sought to dismiss the writ petition.

15. This Court gave anxious consideration to the submissions made by the respective counsels and carefully examined the material available on record.

16. It is an admitted fact that as per the common order dated 08.08.2001, passed by this Court, the District Collector, Karur prepared a



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report and gave a list of genuine candidates, who registered their names with genuine documents in the District Employment Exchange, Karur and as per the said list, 129 genuine candidates were called for interview for the post of Secondary Grade Teacher on 03.01.2002. Due to the objections raised by some of the aspirants at that time, the authorities made certificate verification of those candidates on 11.01.2002.

17. The case of the petitioners is that though backlog vacancies are available in the category of Scheduled Caste, Scheduled Tribe and Most Backward Class, the petitioners' cases were not considered for appointment. Meanwhile, the Government has passed G.O.Ms.No.100, School Education Department, dated 27.03.2003 for the appointment of Junior Secondary Grade Teachers in Panchayat Union Elementary Schools under consolidated pay of Rs.3,000/- and the petitioners were appointed in the year 2004 on consolidated pay and subsequently, their services were regularised on 01.06.2006. The writ petition filed by one K.Arumugam in W.P.No.18267 of 2009 seeking direction to fix the seniority and notional benefits from 03.01.2002, the date on which the petitioner therein secured the right of



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appointment to the post of Secondary Grade Teacher was allowed by this Court on 07.01.2014 as prayed for by following the earlier order dated 16.07.2010 in W.P.No.47929 of 2006. While so, the shock and surprise of the petitioners, the impugned order came to be passed.

18. On careful examination of the entire facts of the case, it is an admitted fact that the petitioners' names were not found place in the list forwarded by the District Collector as per the common order dated 08.08.2001 of this Court. In fact, the list was prepared by the District Collector, Karur with the names of the candidates registered in the District Employment Exchange, Karur as on October, 2001. It is also an admitted fact that the petitioners have registered their name in the District Employment Exchange only in the month of November, 2001 and December, 2001. Due to this reason only, the petitioners' names were not found in the list prepared by the District Collector, Karur. They were not called for the interview held on 03.01.2002. It is also an admitted fact that the petitioners were appointed as Secondary Grade Teachers on consolidated pay as per G.O.Ms.No.100, School Education Department,



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dated 27.03.2003 in the year 2004 and regularised on 01.06.2006. As such, there is some force in the contention of the learned Government Advocate that the petitioners were appointed only basing on the Government Order issued in G.O.Ms.No.100, dated 27.03.2003 and as such, the petitioners are nothing to do with the earlier selection process held on 03.01.2002.

19. In the considered opinion of this Court, the petitioners' names were not registered in the Employment Exchange as on the date of sponsoring the names of the candidates, who were registered prior to October, 2001. The respondents have considered the candidates, who registered their names as on October, 2001 for appointment of the Secondary Grade Teachers and they were called for interview scheduled on 03.01.2002. As the petitioners registered their names in the Employment Exchange only in the month of November, 2001, in our view, the petitioners are not entitled to claim any right to seek the relief sought in this writ petition with effect from 03.01.2002. On this ground alone, this writ petition can be dismissed, as the petitioners failed to make out any case warranting interference of this Court under Article 226 of the Constitution of India.



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20. Accordingly, this Writ Petition is dismissed.

21. There shall be no order as to costs.

22. Consequently, connected miscellaneous petition is closed.

26.09.2023

Note: Issue order copy by 29.09.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

1.The Secretary to Government,
State of Tamilnadu,
Education Department, Fort St. George,
Chennai-9.

2.The Director of Elementary Education,
College Road,
Chennai-600 006.



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BATTU DEVANAND, J.

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- 3.The Chief Educational Officer,
Karur, Karur District.
- 4.The District Elementary Educational Officer,
Karur, Karur District.
- 5.The Additional Assistant Elementary Educational Officer,
Karur Union, Karur District.
- 6.The Assistant Elementary Educational Officer,
Karur Union, Karur District.

Pre-delivery Order made in
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26.09.2023